

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P2402 WO	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2005/004775	International filing date (<i>day/month/year</i>) 03.05.2005	Priority date (<i>day/month/year</i>) 06.05.2004
International Patent Classification (IPC) or national classification and IPC C03C17/04 C03C8/14 C03C10/00 H05B3/74 F24C15/10		
Applicant SCHOTT AG		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>8</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>3</u> sheets, as follows: <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input checked="" type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the
- language**
- , this report is based on:

- ☒ the international application in the language in which it was filed
- ☐ the translation of the international application into _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3(a) and 23.1(b))
- ☐ publication of the international application (Rule 12.4(a))
- ☐ international preliminary examination (Rule 55.2(a) and/or 55.3(a))

2. With regard to the
- elements**
- of the international application, this report is based on (
- replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*
-):

- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-9 as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-7 received by this Authority on 23.02.2006 with letter of 21.02.2006
- nos.* 8, 9 received by this Authority on 01.07.2006 with letter of 28.06.2006
- ☐ the drawings:
- sheets _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

- 3.
- ☒
- The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☒ the claims, nos. 10-12
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

- 4.
- ☐
- This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>1-9</u>	YES
		Claims _____	NO
	Inventive step (IS)	Claims _____	YES
		Claims <u>1-9</u>	NO
	Industrial applicability (IA)	Claims <u>1-9</u>	YES
		Claims _____	NO
2.	Citations and explanations (Rule 70.7)		
1.	Reference is made to the following documents:		
	D1: US-A-5 032 429 (DIEFENBACH ET AL) 16 July 1991 (1991-07-16)		
	D2: US-A-4 353 991 (VAN NESS ET AL) 12 October 1982 (1982-10-12)		
	D3: DE 101 34 374 A1 (SCHOTT GLAS) 6 February 2003 (2003-02-06)		
	D4: US-A-5 009 711 (EMMERT ET AL) 23 April 1991 (1991-04-23)		
	D5: US-B1-6 517 628 (PFAFF GERHARD ET AL) 11 February 2003 (2003-02-11)		
	D6: US-A-5 022 923 (RAU ET AL) 11 June 1991 (1991-06-11)		
	D7: US-A-5 783 506 (EPPLER ET AL) 21 July 1998 (1998-07-21)		
2.	The subject matter of claims 1-9 is novel (PCT Article 33(2)), since no document discloses the use of Colorstream pigments.		
3.	Document D3 is considered the closest prior art		

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>and discloses a glass ceramic body or glass body in the form of a cooking surface, decorated with a colour based on a silicate melt, which is provided with ceramic pigments and reduces the appearance of wear and scratches. The only difference between the current application and D3 is the use of colour-flop pigments instead of colour pigments.</p> <p>The applicant argues (page 4, last paragraph - to the top of page 5 of the description) that a person skilled in the art would not consider using such pigments owing to the lack of temperature stability. In addition, the applicant has submitted data sheets for two Colorstream products (letter of 21 February 2006), in which the temperature performance is indicated as being "stable up to 230°C".</p> <p>Nevertheless, the prior art (D5, column 1, lines 45-59) shows that multilayer pigments based on silicon dioxide platelets can be used in ceramic glazes.</p> <p>It is also not clear to what exactly the temperature performance indication of stable up to 230°C refers, and therefore that indication cannot currently be considered to contain any technical prejudice for a person skilled in the art. A person skilled in the art knows from the prior art (D1, D2, D4-D7) that silicate pigments can be used in silicate melts.</p>

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Box No. V**Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

The subject matter of claims 1-9 therefore appears
to be non-inventive (PCT Article 33(3)).

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Box No. VI

Certain documents cited

1. Certain published documents (Rule 70.10)

Application No.
Patent No.Publication date
(day/month/year)Filing date
(day/month/year)Priority date (valid claim)
(day/month/year)

2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure

Date of non-written disclosure
(day/month/year)Date of written disclosure
referring to non-written disclosure
(day/month/year)

See supplemental sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

5. The subject matter of claims 1-4 does not meet the requirements of PCT Article 6 because the claims contain a trade name ("Colorstream") (see the PCT Guidelines 5.39).

Although the word "Colorstream" could also be understood as a product name, a problem arises from the fact that companies do not disclose the exact composition or constitution of the pigments and from the fact that the composition or constitution of the pigments may change over the lifetime of a patent. The word "Colorstream" also cannot be regarded as a trade name which has been adopted as a general designation.

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box VI

4. The following document may be relevant in any subsequent European phase:

D8: WO 2004/046254 A (CIBA SPECIALTY CHEMICALS
HOLDING INC; BUJARD, PATRICE; BUGNON,
PHILIPP) 3 June 2004 (2004-06-03)